

IN THE  
COURT OF APPEAL  
OF THE STATE OF CALIFORNIA  
SECOND APPELLATE DISTRICT  
DIVISION THREE

Civ. No. B 038975  
(Super. Ct. No. C420153)

8-22-91

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CHURCH OF SCIENTOLOGY OF CALIFORNIA,

Plaintiff-Appellant,

and

MARY SUE HUBBARD,

Intervenor-Plaintiff-Appellant,

-against-

GERALD ARMSTRONG,

Defendant-Respondent.

---

BENT CORYDON,

Respondent.

---

ON APPEAL FROM SUPERIOR COURT OF THE STATE OF CALIFORNIA  
COUNTY OF LOS ANGELES  
JUDGE BRUCE R. GEERNAERT

---

APPELLANT'S OPPOSITION TO BENT CORYDON'S  
PETITION FOR REHEARING

---

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Mary Sue Hubbard



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**OPPOSITION TO CORYDON'S  
PETITION FOR REHEARING**

Corydon's petition should be denied. Central to this court's decision are the following points, wholly ignored by Corydon.

1. "Corydon intervened . . . seeking access to the sealed record for the limited purpose of preparing his own cases involving the Church." Slip op. at 14. Put otherwise, despite having notice of the sealing order and despite having intervened, Corydon did not seek to vacate the sealing order, but only sought to obtain his own limited access to it. "He now seeks in this court more than he sought by his motion in the trial court." Id. at 15, n.4.

2. "No showing was made other than that supporting Corydon's motion for access to the record." Slip op. at 15.

3. "Judge Geernaert, on his own motion, vacated Judge Breckenridge's order sealing the record." Slip op. at 14. Indeed, Judge Geernaert provided no reasoned basis for doing so, merely opining that it was too much of a burden on the clerk's office to maintain the seal.

4. "[T]he parties [e.g., the Church] had the right to rely on the sealing order." Slip op. at 15. While this court did not elaborate on this critical point, it was well aware of the cases and authorities, heavily relied upon by the Church, providing that a party's reliance as an inducement to settle a

complex litigation, is a powerful reason to uphold a sealing order.

5. Therefore, "Judge Geernaert exceeded his authority in vacating Judge Breckenridge's order sealing the record." Id.

Corydon's hypertechnical petition for rehearing utterly ignores the compelling force of the above reasons supporting this court's decision. Corydon's generalized complaint that members of the "public" who have a need for access to the record will be deprived of such access is belied by the fact that Corydon himself obtained access to the record by making a particularized showing,<sup>1/</sup> a route open as well to others. Corydon certainly is in no position, and has no legal standing, to make an argument on behalf of others who have not chosen to make it themselves.

Corydon's legal arguments regarding C.C.P. § 473 and § 1008 are based on an apparent misunderstanding of this court's decision. This court did not rule or even suggest that Corydon or any member of the public seeking access to sealed court records would be bound by the procedural requirements of §§ 473 or 1008. This court's references to these statutes, and to the doctrine that limits one judge's power to set aside another judge's order, were made to show that in the absence of a particularized showing of necessity by a third party, parties to a settlement sealing court records which is embodied in a court

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<sup>1/</sup> The Church does not concede or accept that Corydon made a proper or sufficient showing, but that issue was in effect rendered moot by events and was not raised on this appeal, as this Court recognized.

order have the right to rely upon that order once the time for motions under §§ 473 and 1008 has passed.

CONCLUSION

For the reasons stated herein and in our previous briefs on this matter, Corydon's petition for rehearing should be denied.

Respectfully submitted,

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CERTIFICATE OF SERVICE

STATE OF NEW YORK )  
                              ) ss.:  
COUNTY OF NEW YORK)

Simone Leak, being duly sworn deposes and says, that she is not a party to the action, is over 18 years of age and resides in New York, New York. That on the 20th day of August, 1991, she served the within Petition for Rehearing upon:

One copy upon:

Gerald Armstrong  
P.O. Box 751  
San Anselmo, California 94960


With an additional copy upon:

Toby L. Plevin, Esq.  
10700 Santa Monica Blvd.  
Suite 4300  
Westwood, CA 90025

With an additional five copies upon:

Supreme Court of the  
State of California  
300 South Spring Street  
Los Angeles, California 90013

the addresses designated by the above for that purpose, by depositing a true copy of same enclosed in a post-paid properly addressed express mail wrapper, in a post office official depository under the exclusive care and custody of the United States Postal Service within the State of New York.

  
SIMONE LEAK

Sworn to before me  
this 20th day of August, 1991

\_\_\_\_\_  
NOTARY PUBLIC  
ALBA N. CLAUDIO  
Notary Public, State of New York  
No. 03-4672638  
Qualified in Bronx County  
Commission Expires May 31, 19\_\_\_\_